

1 \_\_\_\_\_ JOINT RESOLUTION NO. \_\_\_\_\_

2 INTRODUCED BY \_\_\_\_\_

3 (Primary Sponsor)

4 A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF  
5 MONTANA REQUESTING AN INTERIM STUDY OF REGULATORY TAKING.

6  
7 WHEREAS, the United States Supreme Court established as a general principle in Pennsylvania Coal  
8 Co. v. Mahon, 260 U.S. 393 (1922), that "if [government] regulation goes too far it will be recognized as a  
9 taking"; and

10 WHEREAS, the United States Supreme Court in Penn Central Transportation Co. v. City of New York,  
11 438 U.S. 104 (1978), subsequently laid out general guidance for determining whether a regulatory taking has  
12 occurred; and

13 WHEREAS, the Penn Central decision does not include a "set formula to determine where regulation  
14 ends and taking begins"; and

15 WHEREAS, the Montana Legislature would benefit from a study of regulatory taking that may lead to  
16 possible policy solutions.

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18 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF  
19 THE STATE OF MONTANA:

20 That the Legislative Council be requested to designate an appropriate interim committee or statutory  
21 committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

- 22 (1) conduct a general analysis of the subject of regulatory taking;
- 23 (2) analyze efforts in other states to address regulatory taking; and
- 24 (3) develop possible solutions to address regulatory taking.

25 BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be  
26 presented to and reviewed by an appropriate committee designated by the Legislative Council.

27 BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review  
28 requirements, be concluded prior to September 15, 2022.

